

# **EXHIBIT C**

MATTHEW GREENBLATT  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: SIPA LIQUIDATION

BERNARD L. MADOFF INVESTMENT No. 08-01789(BRL)  
SECURITIES LLC,  
(Substantively  
Consolidated)

Debtor.

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IRVING H. PICARD, Trustee of the  
Liquidation of Bernard L. Madoff  
Investment Securities LLC,  
Plaintiff,

Adv. Pro. No.  
09-01182(BRL)

vs.

J. EZRA MERKIN, GABRIEL  
CAPITAL, L.P., ARIEL FUND LTD.,  
ASCOT PARTNERS, L.P., GABRIEL  
CAPITAL CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION OF MATTHEW GREENBLATT  
New York, New York  
August 17, 2015

Reported by:

KATHY S. KLEPFER, RMR, RPR, CRR, CLR  
JOB NO. 96625

1 MATTHEW GREENBLATT  
2 doesn't appear in your March 20 or November 15  
3 reports?

4 A. The only thing I can think of is the  
5 treatment of the IRS refund, which was -- which  
6 is included in the March 20, '15 report.

7 Q. How did your analysis -- did your  
8 analysis -- how did your analysis change as to  
9 the tax payments --

10 MR. SONG: Object to the form.

11 Q. -- over time?

12 A. In the Principal Balance Calculation  
13 Report, for foreign account holders dollars were  
14 withheld or moneys -- funds were withheld from  
15 foreign account holders by BLMIS and paid  
16 directly to the IRS.

17 As a result, those have been  
18 considered reductions in principal for those  
19 foreign account holders because payments were  
20 made by the estate on their behalf. As I  
21 understand it, two of the Merkin-related funds  
22 received direct refunds from the IRS, separate  
23 from the refund that the IRS paid back to the  
24 trustee and the estate for the full six-year  
25 period of withdrawals.

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2 So because the estate recovered those  
3 six-year withdrawals, the calculation has  
4 reversed those transactions and, therefore, they  
5 are no longer being deducted from accounts.

6 And at one point we had made an  
7 adjustment for the two Merkin Funds that I  
8 believed had gotten a direct refund, but because  
9 we haven't been able to tie out -- I don't have  
10 the information to tie those out directly,  
11 counsel had instructed me to treat the refunds  
12 the same as I had for every other account.

13 Q. And how did counsel instruct you to  
14 treat those refunds?

15 A. I was instructed to not consider those  
16 holdings during the six-year period as  
17 deductions of principal.

18 Q. Did you consider all tax holdings to  
19 be deductions of principal?

20 A. Only when payments were made by BLMIS  
21 on behalf of the account holder.

22 Q. For all time periods?

23 A. Initially, yes, and then when the IRS  
24 refunded the six-year balance back to the  
25 estate, the calculation basically zeros those

1 MATTHEW GREENBLATT  
2 transactions out and eliminates the deduction.  
3 Therefore, there is no longer a deduction to  
4 principal because the money left the estate but  
5 came back into the estate.

6 Q. What was your basis for deducting  
7 certain payments from the principal balance?

8 A. The determination of everyone's net  
9 equity balance is essentially a legal  
10 conclusion. I was tasked by the trustee and his  
11 counsel to identify and prepare schedules of all  
12 of the cash and principal transactions, and so  
13 every deposit, every withdrawal, and every  
14 payment made on behalf of a customer was  
15 identified as additions and deductions to  
16 principal.

17 Q. So you deducted those payments at the  
18 request of counsel?

19 MR. SONG: Object to the form.

20 A. Well, the -- they are considered one  
21 of the outflows of funds that are part of the  
22 calculation of an individual account's principal  
23 balance, which was -- which has been outlined in  
24 the methodology of the calculation.

25 Q. Isn't it true that the tax payments to

1 MATTHEW GREENBLATT  
2 the IRS were necessitated by fictitious activity  
3 in the accounts?

4 MR. SONG: Object to the form.

5 A. I would say yes.

6 Q. And those tax payments were not made  
7 at the request of account holders, correct?

8 MR. SONG: Object to the form.

9 A. I don't know whether or not they ever  
10 said, "Pay them on my behalf or not." The  
11 calculation, though, goes to the books and  
12 records and a reconstruction of the items on the  
13 books and records as to what transactions  
14 actually transpired with respect to cash and  
15 principal. So those payments were made on  
16 behalf of account holders by BLMIS and,  
17 therefore, have been concluded were reductions  
18 of their principal.

19 Q. And you're not offering an opinion as  
20 to the appropriateness of deductions of the tax  
21 payments from the net equity; that was  
22 determined by counsel, right?

23 MR. SONG: Object to the form.

24 A. As I said before, the net equity  
25 determinations are essentially a legal

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2 conclusion, and from the very beginning, I was  
3 asked by counsel to the trustee to identify cash  
4 and principal transactions and to apply this  
5 methodology of inflows and outflows.  
6 Q. You're not offering an opinion as to  
7 the appropriateness of that methodology,  
8 correct?  
9 A. That's correct.  
10 Q. Was there any other analysis that you  
11 had done that was altered before -- before  
12 issuing your final reports?  
13 MR. SONG: Object to the form.  
14 A. I don't think -- I can't think of any,  
15 no.  
16 Q. Are you being compensated for your  
17 time spent on the Merkin and Madoff cases?  
18 A. Yes.  
19 Q. How are you being compensated?  
20 A. Me, personally, or my firm?  
21 Q. How are you personally being  
22 compensated?  
23 A. I draw a salary and bonus over time.  
24 Q. How is the amount of your bonus  
25 determined?

1 MATTHEW GREENBLATT  
2 Q. And what was your time billed out as  
3 prior to -- prior to that promotion?  
4 A. I think it was \$530 per hour.  
5 Q. How many -- how much has FTI billed  
6 for you in connection with this case?  
7 A. For my time, specifically?  
8 Q. Yes.  
9 MR. SONG: And which case are you  
10 referring to?  
11 MS. BRONEN: The Madoff case.  
12 THE WITNESS: I don't know that  
13 number.  
14 BY MS. BRONEN:  
15 Q. How much has FTI billed in connection  
16 with the Merkin matter for your time?  
17 A. I don't know. I don't know that  
18 number.  
19 Q. More than \$500,000?  
20 A. For my time personally? I don't think  
21 so, no.  
22 Q. More than \$100,000?  
23 A. I would think so, yes.  
24 Q. How much has FTI billed in connection  
25 with the Merkin matter for the time spent by

1 MATTHEW GREENBLATT  
2 A. It's subjective based on an overall  
3 contribution to the firm.  
4 Q. How is FTI being compensated in  
5 connection with this case?  
6 A. FTI bills on an hourly basis each  
7 month.  
8 Q. And what is the hourly billing rate  
9 for the Madoff matter?  
10 MR. SONG: Object to the form.  
11 A. For whom?  
12 Q. For FTI.  
13 A. For whom? Each employee -- each team  
14 member from FTI has a different billing rate,  
15 depending on skill level and expertise and  
16 experience.  
17 Q. I apologize. What is your hourly --  
18 what is your time billed out as?  
19 A. We are currently billing my time at  
20 \$554 an hour.  
21 Q. Has that rate changed over time?  
22 A. It has changed one time, yes.  
23 Q. When was that?  
24 A. In 2010 when I was promoted to senior  
25 managing director.

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2 your team?  
3 A. I think for the whole team it's  
4 probably -- I don't know an exact number, but I  
5 think it's around 500 or 600,000 for the whole  
6 team.  
7 Q. Do you know how much FTI has billed in  
8 connection with the entire Madoff matter?  
9 A. I don't know an exact number.  
10 Q. Do you have an approximation?  
11 A. I think it's approximately \$150  
12 million.  
13 Q. Are there any outstanding bills for  
14 your time in connection with the Merkin matter?  
15 A. Not outside the ordinary course. I  
16 can't say "no" to that because we bill for  
17 time -- we bill at inter -- we bill for time in  
18 prior months when we get our bills out, so there  
19 are time spent -- there is time spent for me,  
20 but not outside the ordinary course of those  
21 bills being outstanding.  
22 Q. Do you know approximately how much is  
23 outstanding?  
24 A. I don't.  
25 Q. Are all of the materials you

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1 MATTHEW GREENBLATT  
2 chronological listings of all of the cash and  
3 principal transactions.  
4 So, in developing that methodology, it  
5 was determined that the appropriate means with  
6 which to calculate net equity for determination  
7 were the inflows and outflows that I summarized  
8 in my Global Report, the November 15 report. So  
9 those are the calculations -- those are the  
10 elements of the calculation.

11 Specifically excluded from that I was  
12 instructed to not account for, in these  
13 principal balance calculations, any of the  
14 fictitious trading, fictitious gains, or  
15 fictitious securities.

16 Q. So it wasn't you that determined the  
17 appropriate means to calculate net equity,  
18 correct?

19 A. The appropriate means to calculate net  
20 equity is a legal conclusion, and I have been  
21 asked to accumulate the data and prepare the  
22 calculation so that the net equity  
23 determinations can be made by the trustee and  
24 his counsel.

25 Q. But you're not offering any opinion as

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2 to the appropriateness of the method to  
3 calculate -- used to calculate net equity,  
4 correct?

5 A. You have asked that before, and I have  
6 answered it's a legal determination. It's  
7 not -- that's not what the opinions in my report  
8 are.

9 Q. And what do you mean "not account for  
10 fictitious securities"?

11 A. So, as I was instructed, I believe  
12 it's paragraph 18 in the Global Report, I was  
13 instructed to exclude in the principal balance  
14 calculation all things related to the fictitious  
15 trading. So the fictitious trading -- no credit  
16 is given for the portion of inter-account  
17 transfers -- I'm reading one sentence too far.

18 So no credit is given for gains or  
19 losses resulting from trades reflected on  
20 customer statements, and the principal balance  
21 calculation does not include any impact of the  
22 trading activity that was reflected on customer  
23 statements.

24 Q. Please turn to page 1 of your November  
25 15 report.

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1 MATTHEW GREENBLATT  
2 A. Yes.

3 Q. Does paragraph 5 accurately state the  
4 scope of your engagement in this matter?

5 MR. SONG: Object to the form.

6 A. What was the specific question? Does  
7 it accurately reflect?

8 Q. The scope of your engagement in the  
9 Merkin matter.

10 A. Well, with respect to this report,  
11 yes. I mean, there are other -- other  
12 components of the engagement that are not  
13 related to the Merkin matter, but for the Merkin  
14 matter and for the Principal Balance Calculation  
15 Report, yes, that summarizes the scope.

16 Q. Have you formed any professional  
17 opinions in connection with your work in the  
18 Merkin matter that are not set forth in your  
19 November 15 or March 20 reports?

20 A. With regard to principal balance or --

21 Q. With regard to anything. Have you  
22 formed any professional opinions in connection  
23 with your work on the Merkin matter that are not  
24 set forth in your November 15 or March 20  
25 reports?

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1 MATTHEW GREENBLATT  
2 MR. SONG: Object to the form.

3 A. With respect to the Merkin matter, no,  
4 I think the professional opinions that I have  
5 put forth are included here in this report.

6 Q. Do you intend to offer any opinions  
7 beyond what's contained in your November 15 and  
8 March 20 reports if you are called upon to  
9 testify at trial?

10 A. I don't think so, no.

11 Q. If called upon to testify at trial, do  
12 you intend to offer any opinions about the  
13 documents you have reviewed in connection with  
14 the Merkin matter that go beyond the opinions in  
15 your reports?

16 A. I don't think so, no.

17 Q. If called upon to testify, do you  
18 intend to offer any opinions about the testimony  
19 you have reviewed that go beyond the opinions in  
20 your reports?

21 A. I don't think so, no.

22 Q. Do you intend to offer any additional  
23 summary exhibits if called to testify at trial?

24 MR. SONG: Object to the form.

25 A. I may use certain demonstratives to

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A. Yes.

Q. What are some of the additional transactions that you factored into the principal balance calculation?

A. The inter-account transfers to and from one BLMIS customer account to another and the cash withdrawals in the form of payments made by BLMIS on behalf of the account holders.

Q. Can you describe some of the inter-account transfers that you factored into your principal balance calculation?

A. Sure. In many instances, within the BLMIS customer accounts, there are transfers of funds from one account to another, and the analysis requires that we identify the amount of principal available in the account at the time those funds are attempted to be transferred from Account A to Account B, and so it'll show up on a line item on a customer statement that says transfer to Account XXX, and then on the other account, it'll show a transfer from Account ZZZ, and it'll have a dollar amount of an attempted amount of funds to be transferred. It'll show up that way on a customer statement.

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his team had determined was the appropriate method with which to calculate the net equity balances.

So I identified all of those instances of inter-account transfers of funds and identified principal available in everybody's account, and I identified all the instances of transfers of reportedly held but fictitious securities; and the decision was made that the fictitious trading activity and the fictitious securities, any fictitious gains generated, all of the fictitious activity couldn't be moved from one account to another, and only funds in the form of principal could be moved in the inter-account transfers.

Q. And you're not offering any opinion as to the appropriateness of excluding the transfer of securities between BLMIS accounts, correct?

A. It calls for a legal conclusion, so all I'm offering is the calculation of the methodology that accounts only for principal.

Q. Did you ever discuss factoring in the transfer of securities between BLMIS accounts into your principal balance calculation?

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We have identified all of those line items where funds were attempted to be transferred from one to the other, and then we look at how much principal was available in the account at the time of that transfer and move over only those funds up to the balance of principal available in the transferor's account at the time.

Q. What about the transfer of securities between BLMIS accounts, did you factor that into the principal balance calculation?

A. Those have all been reviewed and considered, but as the fictitious trading has been identified within Madoff, the securities were not actually purchased, no securities actually existed, so the securities could not be moved from one account to another because they didn't exist. So those have all been considered and excluded from the calculation.

Q. And did you make the determination to exclude the transfer of securities between BLMIS accounts?

A. It was not my decision to be made. It was part of the methodology that the trustee and

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MR. SONG: Object to the form.

A. It was part of the overall discussions that took place during the reconstruction of the books and records and the calculation of principal balance, yes.

Q. And you discussed that with counsel?

MR. SONG: I caution the witness not to divulge anything that's privileged, but you can that question yes or no.

A. Yes.

Q. Did you discuss that decision -- the decision to exclude the transfer of securities between BLMIS accounts with anyone at FTI?

MR. SONG: Same caution.

A. Yes.

Q. And as a result of your discussions with counsel, you decided to exclude the transfer of securities between BLMIS accounts from your calculations, correct?

MR. SONG: Object to the form.

A. So you say -- the question said I decided?

Q. As a result of your discussions with counsel, yes.

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A. I performed the calculation where it was determined that the appropriate method to calculate net equity or determine net equity was to account for all actual cash and principal transactions on the face of the BLMIS documents on the books and records that we were reconstructing in an effort to calculate the reality of the Madoff situation and to disallow any of the fictitious trading activity.

Q. You're the expert who signed these reports, correct?

A. Yes.

Q. And as the expert, you made the determination to exclude those transactions from the principal balance calculation, correct?

MR. SONG: Object to the form. Asked and answered.

A. I don't agree with that, no.

Q. Where in your report do you say that you're excluding the transfer of securities between BLMIS accounts from your principal balance calculation?

A. It's captured in paragraph 18, where it says, "The principal balance calculation does

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not include trading activity reflected on customer statements. At the direction of Trustee's counsel, no credit is given or removed for gains or losses resulting from trades reflected on customer statements."

Q. Is the transfer of securities from one BLMIS account to another a trade?

MR. SONG: Object to the form.

A. No, I wouldn't call it a trade.

Q. So where in your report do you say that you're excluding the transfers of securities between BLMIS accounts from your principal balance calculation?

A. It's implied in that sentence. It doesn't use the words, but the principal balance calculation doesn't include the trading activity. The direction I was provided was to prepare a calculation based on the inflows and the outflows that are in paragraph 17 and to not give any credit to any of the fictitiously purchased securities or any of the fictitious gains from fictitious sales of securities or any of that related trading activity.

So, in situations where securities

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that don't exist are attempted to be moved from Account A to Account B, the principal that exists in an account is not ignored; it's left in the transfer -- the principal is left in the transferor's account because the securities can't be moved.

Q. Paragraph 17 says you considered non-cash deposits, correct?

A. It says that, yes.

Q. Is a security that's being transferred from one BLMIS to another a non-cash deposit of principal?

A. In certain cases, yes. There are instances where BLMIS customers deposited real bonds or real securities from other brokerage accounts, and those were granted as principal to those account holders because they represented real non-cash deposits.

The fictitiously reported purchases of securities are treated differently because the fictitious trading never took place, so the securities listed on the vast majority of customer statements that were falsely reported as purchased, those securities never existed,

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BLMIS never had custody of those shares, and therefore, those shares couldn't be moved from Account A to Account B.

Q. When cash was transferred from one BLMIS account to another, was there actual cash being transferred?

A. And I never used the word "cash" being transferred because, no, cash was not transferred in inter-account transfers. It was a book entry, where liquid -- liquidly-available-looking funds were moved, but no cash ever changed hands.

Q. So it was just a book entry that you included in your principal balance calculation?

A. For the inter-account transfers? Question mark.

Q. Yes, for the inter-account transfers, it was just a book entry that you included in your principal balance calculation, correct?

A. Those inter-account transfers that are reflected in the principal balance calculation are book entries made to move funds from one account to another, and then the analysis that I described earlier was put on each one of those.

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2 B, whether Account B thought they were getting  
3 them or not. And in the situation of  
4 fictitiously held securities that are attempted  
5 to be delivered to the transferee, those  
6 securities don't exist so the entire transaction  
7 is considered to be part of the false reporting  
8 within BLMIS, and so in that transaction,  
9 nothing moves over and the principal stays with  
10 the transferor.

11 Q. In how many accounts did you observe  
12 the transfer of fictitious securities?

13 MR. SONG: Object to the form.

14 Are you referring to overall in BLMIS?

15 MS. BRONEN: Yes.

16 THE WITNESS: Overall, within BLMIS,  
17 relative to the total number of accounts, a  
18 very small percentage. Of the 8,000-plus  
19 accounts, I believe we identified it in less  
20 than 50 or 60 of the accounts. It was rare.

21 BY MS. BRONEN:

22 Q. Did you maintain a list of those 50 or  
23 60 accounts?

24 A. Within the data that we have  
25 collected, we have that information from the

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1 MATTHEW GREENBLATT  
2 trading activity readily available from the  
3 electronic record period.

4 If you remember, we talked earlier  
5 about the December 1995 time period forward. So  
6 from December 1995 time period forward, we have  
7 all of the fictitious trading electronically.  
8 In the microfilm period, from November 1995  
9 prior, we have the cash and principal  
10 transactions available and included in our data.

11 So from December 1995 forward, yes, we  
12 have all of the instances in which accounts  
13 attempted to transfer or deliver fictitiously  
14 held securities.

15 Q. Are you aware of any instances in  
16 which the trustee gave credit to the  
17 transferor -- transferee of any portion of  
18 fictitious securities?

19 MR. SONG: Object to the form.

20 A. When you say the trustee has given  
21 credit, in what capacity? Because I can tell  
22 you that the calculations of principal balance  
23 that were used to determine net equity, I don't  
24 believe that to be the case.

25 Q. Are there any other situations in

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1 MATTHEW GREENBLATT  
2 which the trustee gave the transferee of  
3 fictitious securities any benefit as a result of  
4 those transfers?

5 A. I mean, I'm not subject -- I'm not  
6 privy to settlement discussions or any  
7 negotiations that take place, but I suppose in  
8 certain situations, the trustee could have  
9 discussions like that. But I can tell you that  
10 in the calculations there is no credit granted  
11 to any customer, Merkin or outside of  
12 Merkin-related accounts, where any credit is  
13 granted for the delivery of fictitiously held  
14 securities.

15 Q. Are there instances where you think it  
16 would be appropriate to give credit for the --  
17 to the transferee of a portion of the value of  
18 the fictitious securities transferred?

19 MR. SONG: Object to the form.

20 A. And I'm not sure it's my place to  
21 opine on appropriateness, but I believe that  
22 this is the correct way to exclude the delivery  
23 of fictitious securities from Account A to  
24 Account B. It's the correct way to account for  
25 it under this methodology.

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2 Q. Did you consider using any other  
3 methodologies?

4 A. No.

5 Q. Did you discuss using any other  
6 methodologies?

7 A. I don't think so. I think that, from  
8 the very beginning of this case, I was tasked  
9 with identifying cash and principal transactions  
10 to calculate net equity consistent with this  
11 methodology.

12 Q. Why didn't you consider any other  
13 methodologies?

14 A. For the same reason I would say  
15 before, which is the determination of net  
16 equity, which is what these principal balance  
17 calculations are used for, is a legal  
18 conclusion, and I was taking my direction from  
19 the trustee and his counsel.

20 Q. You performed the principal balance  
21 calculation for each of the Merkin Funds' BLMIS  
22 accounts, correct?

23 A. Correct.

24 Q. And you determined that Ascot  
25 Partners, Ariel Fund Limited, Gabriel Capital,



1 MATTHEW GREENBLATT  
2 L.P. were each net losers as of December 2008,  
3 correct?  
4 A. And I want to say "yes" to that, but  
5 the term "net loser" I guess is a term of art in  
6 that situation. So when you say "net loser,"  
7 what do you mean?  
8 Q. What do you think I mean?  
9 A. I think you mean that they had  
10 deposited more than they had withdrawn when the  
11 Ponzi scheme came to an end.  
12 Q. And do you agree that Ascot Partners,  
13 Ariel Fund Limited, Gabriel Capital, L.P. had  
14 all deposited more than they had withdrawn?  
15 A. I'm just going to confirm that answer,  
16 but "yes" is my answer. When you say Ariel  
17 Fund, Ariel -- did you say Ariel Fund or Ariel  
18 Capital?  
19 Q. Ariel Fund Limited.  
20 A. Yes.  
21 Q. And turning to Exhibit 3D in your  
22 March 20 report.  
23 A. Yes.  
24 Q. You found that Ascot Partners had over  
25 \$226 million of principal left in its account in

1 MATTHEW GREENBLATT  
2 December 11, 2008, correct?  
3 A. Correct.  
4 Q. And turning to Exhibit 3E, you  
5 determined that Ariel Fund had more than \$175  
6 million of principal left in its account on  
7 December 11, 2008, correct?  
8 A. The -- and there were several Ariel  
9 funds, some of which ended previously with zero  
10 balances, but Ariel Fund Account 1FR070, yes.  
11 Q. And turning to Exhibit 3F, you  
12 determined that Gabriel Capital, L.P. had more  
13 than \$163 million of principal left in its  
14 account on December 11, 2008, correct?  
15 A. Correct.  
16 Q. And so, as you defined it, all three  
17 of these accounts were net losers, correct?  
18 A. Correct.  
19 Q. And turning to paragraph 96 of your  
20 report, your March 20 report, you also  
21 determined that of the more than \$974 million in  
22 total principal invested in Ascot Partners'  
23 account, only about \$490 million was ever  
24 withdrawn, correct?  
25 MR. SONG: Object to the form.

1 MATTHEW GREENBLATT  
2 A. Yes. In --  
3 Q. And --  
4 A. In cash. Was withdrawn in cash.  
5 Q. And turning to paragraph 117 of your  
6 March 20 report, you also determined that of the  
7 more than \$226 million in total principal  
8 invested in Ariel Fund account, only about \$16.5  
9 million was ever withdrawn, correct?  
10 A. There are three components to  
11 withdrawals. So, yes, I agree that  
12 approximately \$16.2 million was withdrawn in  
13 direct cash payments from BLMIS, and then  
14 additional amounts of principal were withdrawn  
15 for payments made on their behalf to the IRS and  
16 other amounts of principal were withdrawn via  
17 inter-account transfer.  
18 So if you are asking about cash  
19 payments, then I would clarify that a portion of  
20 that were payments made directly to the IRS on  
21 their behalf and a portion of it was paid to the  
22 account holder.  
23 Q. Okay. And turning to paragraph 135 in  
24 your March 20 report, you determined that of the  
25 more than \$283 million of principal invested in

1 MATTHEW GREENBLATT  
2 Gabriel Capital, L.P.'s BLMIS account, only  
3 \$17.4 million in cash was ever withdrawn,  
4 correct?  
5 A. Correct.  
6 Q. And given that you stated that Ascot  
7 Partners, Ariel Fund and Gabriel Capital, L.P.  
8 lost \$22- -- \$226 million, \$175 million and \$163  
9 million, respectively, when the BLMIS fraud was  
10 uncovered, you agree that, collectively, the  
11 funds lost -- the Merkin Funds lost more than  
12 \$565 million in principal as a result of the  
13 fraud, correct?  
14 MR. SONG: Object to the form.  
15 A. Well, that's the math of adding those  
16 three across, but when you say lost as a result  
17 of the fraud, ultimately, if they're able to  
18 recover any, but at the moment, as that was -- I  
19 will testify that, yes, that was the amount of  
20 net losses as of December 11, 2008.  
21 Q. And do you know what portion of those  
22 net losses belonged to Mr. Merkin and his family  
23 personally?  
24 A. I do not.  
25 Q. Please turn to Exhibit 4P of your

1 MATTHEW GREENBLATT  
2 March 20 report.  
3 A. Okay.  
4 Q. Turning to the last page of your  
5 report, what we just discussed is that you  
6 calculated that the net equity as of the time  
7 the fraud was exposed was over \$226 million,  
8 correct?  
9 A. Correct.  
10 Q. And a portion of this net equity --  
11 A. Well, may I interrupt? The principal  
12 balance, because I am not computing net equity  
13 claims here, I am computing principal balance  
14 because, again, as we talked about, net equity  
15 is a legal conclusion, so if we change my last  
16 answer to yes, the ending principal balance was  
17 more than \$226 million.  
18 The net equity, it's not for me to say  
19 what the net equity claim is, as that's a legal  
20 conclusion. So I'm calculating principal  
21 balances, and to the best of my knowledge, those  
22 are then used to determine net equity; but I'm  
23 not here to opine on net equity.  
24 Q. And what's the difference between net  
25 equity and principal balance?

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2 Q. But you only credited just over \$221  
3 million to the Ascot Partners' account principal  
4 balance because that was the available principal  
5 balance that you had calculated to be in Ascot  
6 Fund's account as of January 8, 2003, correct?  
7 A. Correct.  
8 Q. Okay. Please turn to Exhibit 4O of  
9 your March 20 report.  
10 A. Okay.  
11 Q. And do you see that on the last page  
12 of that exhibit, there is the other side of that  
13 transaction, where Ascot Partners is  
14 transferring funds -- I mean where Ascot Fund is  
15 transferring funds to Ascot Partners, correct?  
16 A. I see it, yes.  
17 Q. And columns 7 and 8 show the total  
18 principal balance that you had calculated Ascot  
19 Fund to have on January 8, 2003, correct?  
20 MR. SONG: Object to the form.  
21 A. Yes, column 8 shows the principal  
22 available. Column 7 shows the principal then  
23 that was transferred to the transferee.  
24 Q. Okay. And one of the transfers that  
25 you factored into that total of \$221 million in

1 MATTHEW GREENBLATT  
2 A. From my perspective, they're one and  
3 the same because the principal balance is what's  
4 used to make those net equity determinations,  
5 but it's a legal conclusion and not one for me  
6 to make.  
7 Q. So a portion of the principal balance  
8 remaining in the Ascot Partners account is  
9 attributable to a transfer from Account Number  
10 1FN00530 on January 8, 2003; do you see that?  
11 A. I do.  
12 Q. And do you know that that account  
13 number is an Ascot Fund account?  
14 A. I believe so, but let me please  
15 confirm.  
16 MR. SONG: It's O. Tab O.  
17 A. Yes, Ascot Fund Limited.  
18 Q. And if I'm reading your chart  
19 correctly, according to the customer statements,  
20 Ascot Fund transferred 5 -- over \$551 million to  
21 Ascot Partners on January 8, 2003, correct?  
22 A. The transaction listed on the customer  
23 statement reflected that, yes, that was the  
24 amount transferred on the BLMIS customer  
25 statement.

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2 principal available in January of 2003 appears  
3 on page 2 of Exhibit 4O at the top; it's a  
4 transfer from account number 1FN0430 dated  
5 January 4, 1993, correct?  
6 A. It was -- I think you missed one zero.  
7 1FN00430, yes.  
8 Q. Okay. And was this a transfer from  
9 Ariel Fund to Ascot Fund?  
10 A. Yes.  
11 Q. And this transfer, according to the  
12 customer statements, was in the amount of \$35  
13 million, correct?  
14 A. And change, yes.  
15 Q. And but you only credited about \$13.6  
16 million to Ascot Fund's principal balance,  
17 correct?  
18 A. Correct.  
19 Q. And you only attributed that amount  
20 because you had calculated that, as of January  
21 4, 1993, Ariel Fund only had \$13 --  
22 approximately \$13.6 million in principal balance  
23 on that date, correct?  
24 A. Correct.  
25 Q. Okay. Let's turn to Exhibit 4A of

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2 your March 20 report, and on page 3, toward the  
3 bottom, is that transfer from Ariel Fund of  
4 about \$35 million to Ascot Fund on January 4,  
5 1993, correct?  
6 A. Yes.  
7 Q. And then in column 8 is your  
8 calculation of the principal balance available  
9 in Ariel Fund in January of 1993, correct?  
10 A. Correct.  
11 Q. Please turn to page 2 of Exhibit A,  
12 4A, of your March 20 report.  
13 A. Okay.  
14 Q. You credit a number of inter-account  
15 transfers to Ariel Fund in calculating its  
16 principal balance, correct?  
17 A. A number of transfers into?  
18 Q. You calculate -- yes. In  
19 calculating -- in calculating the principal  
20 balance available in Ariel Fund in January 1993,  
21 there are two transfers of principal credited to  
22 Ariel Fund, correct?  
23 A. There are two transfers of principal  
24 in, yes.  
25 Q. One of these transfers is a March 31,

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2 1992 transfer from BLMIS Account 1FN033?  
3 A. Correct, which you will see from that  
4 line item at the time had the Account Number  
5 105121-3-0.  
6 Q. And that's a Shalvah account, correct?  
7 A. That is correct.  
8 Q. And did you credit any other transfers  
9 from Shalvah Fund to Ariel Fund --  
10 A. Yes.  
11 Q. -- in calculating the principal  
12 balance?  
13 A. Yes.  
14 Q. Okay. Where is that?  
15 A. The last line item, on May 29, 1992,  
16 the last line item on page 2.  
17 Q. Were there any other transfers from  
18 Shalvah to Ariel Fund included in your principal  
19 balance calculation to Ariel Fund?  
20 A. Those were the only two transfers of  
21 funds from Shalvah to Ariel Fund. There was, as  
22 we've been talking about for a while, there was  
23 a transfer or a delivery of fictitiously  
24 reported securities from Shalvah to Ariel, but  
25 the securities didn't exist and, therefore,

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2 aren't included on this calculation.  
3 Q. Did the funds exist?  
4 A. The column 8 will tell you how much  
5 principal was available in the account at the  
6 time of each of those transfers. So, yes, there  
7 were -- they were in a positive principal  
8 balance at the time, but, as we discussed  
9 earlier, because the fictitious securities  
10 didn't exist, they couldn't be delivered.  
11 Q. And you understand that Shalvah's  
12 account was closed in about 1992, correct?  
13 MR. SONG: Object to the form.  
14 A. I know that the account activity  
15 ceased, and I'm not sure whether or not it was  
16 closed officially within Madoff's system or not,  
17 but I know the account activity ceased and that  
18 this was the account holder's final -- final set  
19 of transactions within that account.  
20 Q. And as BLMIS operated, there was  
21 nothing left in the account as of 1992, correct?  
22 MR. SONG: Object to the form.  
23 A. I believe that's the case, yes. I'm  
24 not sure when in 1992. I believe in October or  
25 November of 1992, yes.

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2 Q. But you calculated that Shalvah had a  
3 principal balance of 9. -- about \$9.7 million in  
4 October of 1992, correct?  
5 A. Correct.  
6 Q. And based on your calculations, you  
7 would credit a principal balance of \$9.7 million  
8 to Shalvah as of December 11, 2008, correct?  
9 A. Correct, that's their principal  
10 balance from October of 1992 continuing through  
11 to December 11 of 2008.  
12 Q. And that's because you didn't reduce  
13 that balance based on the securities transferred  
14 out of the Shalvah account, correct?  
15 A. Because the fictitious securities  
16 didn't exist, correct.  
17 Q. And you did not give Ariel Fund credit  
18 for the transfer of those securities, correct?  
19 A. Correct.  
20 MS. BRONEN: Let's take a five-minute  
21 break.  
22 THE VIDEOGRAPHER: We are going off  
23 the record. The time is 1:19 p.m.  
24 (Recess.)  
25 THE VIDEOGRAPHER: The time is 1:33